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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/544,890

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Daejoon Cha

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7303

22429

7590

05/19/2009

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EXAMINER

CASCA, FRED A

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<p><b>Application No.</b> 10/544,890</p>	<p><b>Applicant(s)</b> CHA ET AL.</p>	
	<p><b>Examiner</b> FRED A. CASCA</p>	<p><b>Art Unit</b> 2617</p>	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 01 May 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: Amending independent claim 1 adding the phrases, "GPS satellite longitude and latitude values generated by the position determining server" in lines 18-19 and adding the phrase, "the test device is configured to analyze and display ... provided by the position determining server and GPS satellite information perceived by the mobile" in lines 29-30, and amending claim 12, adding the phrase "regarding at least on GPS satellite" in line 4 and the phrase "the test device" in line 6 require further search and consideration. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See attached.  
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/VINCENT P. HARPER/  
Supervisory Patent Examiner, Art Unit 2617

U.S. Patent and Trademark Office  
PTOL-303 (Rev. 08-06)

**Advisory Action Before the Filing of an Appeal Brief**

Part of Paper No. 20090514

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Richton shows the location monitoring by using GPS, Iwatsuki shows displaying elements on a screen for monitoring purpose, Beauregard shows that satellites with different text or pattern displaying more than one concentric circle, and Fuchs discloses analyzing GPS or location information. Further, the above references can be modified and combined to produce the claimed invention.

In response to arguments that Richton does not disclose the "test device," as claimed, the examiner asserts that Richton clearly discloses a system that uses a wireless network and an A-GPS the system for monitoring performance position including a mobile terminal equipped with a GPS module for receiving a GPS signals, a test device configured to receive and execute a LBS program. Note that the system of Richton analyzes the GPS signals, thus, there has to be a test device in the system of Richton. Richton's system performs the tasks of the claimed "test device" as claimed. The system of Richton doesn't have to specifically mention a "test device". The function of analyzing LBS programs by Richton reads on the claimed "test device." The processor that performs functions of the claimed "test device" could be anywhere in Richton since the claimed invention does not specifically indicated if the test device is part of the mobile terminal or a separate unit connected to the mobile terminal by wires (see abstract, Figures 1-7, "221", col. 2, lines 40-67, col. 9, lines 50-67).

In response to arguments that Iwatsuki does not disclose GPS satellites, the examiner asserts that the GPS satellites are disclosed in Richton. The claimed limitation, "GPS satellite" does not have to be in both Richton and Iwatsuki.

In response to arguments that Beauregard shows elliptical orbits not concentric circles, the examiner asserts that in a two dimensional drawing circles can appear as elliptical. Further a person of ordinary skill in the art would be able to modify Beauregard so that the ellipses are circles. Further a person of ordinary skill in the art would be able to make the drawing's of Beauregard a display item.

Applicant's amendment overcomes the rejection of claims under 35 USC 112, second paragraph. Therefor, the rejection of claims under 112, second paragraph is withdrawn. Further, the rejection of claims under 112, first paragraph is withdrawn. However, rejection of claims under 35 USC 103 is maintained.